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Subject: OCSPP News for June 24, 2021

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US EPA to reexamine ethylene oxide risks
Cheryl Hogue, Chemical & Engineering News

https://cen.acs.org/environment/pollution/US-EPA-reexamine-ethylene-oxide/99/i24

In an action sought by both the chemical industry and environmental advocates, the US Environmental Protection Agency will reexamine its 2020 regulation of ethylene oxide.

The EPA will ask the public for more input on the potency of the carcinogenic gas, the agency told C&EN in a June 22 email. This toxicity value guides the EPA in deciding whether to continue, relax, or strengthen regulation of ethylene oxide leaks from chemical plant equipment, vents, and storage tanks to protect the health of nearby communities.

Made from natural gas or petroleum, ethylene oxide is a basic starting material for manufacturing a variety of products, such as plastics and medicines. The gas is also used to sterilize medical equipment.

In a 2020 Clean Air Act rule, the Trump EPA required manufacturers of organic chemicals to curb their ethylene oxide emissions collectively by 0.69 metric tons per year. Environmental advocates decried the rule as leaving some fenceline communities near chemical plants with increased cancer risk as high as 200 in 1 million from breathing ethylene oxide. The agency's rules generally limit increased cancer risk from exposure to pollutants to 100 in 1 million.

Meanwhile, the US chemical industry criticized the rule for relying on the EPA's 2016 assessment of ethylene oxide. The sector's main lobbying arm, the American Chemistry Council (ACC), calls that assessment flawed.

The ACC also faults the agency for failing to consider an analysis by the Texas Commission on Environmental Quality (TCEQ), which concluded last year that ethylene oxide is far less hazardous than the EPA determined. The TCEQ assessment was not peer reviewed in time for the EPA to consider it for the rule, the agency said in 2020.

Adoption of the TCEQ approach could allow for construction of new plants or expansion of existing facilities that make or use ethylene oxide, the Sierra Club has said.

A number of plants in Texas have high levels of ethylene oxide emissions—including the US facility that reported the highest releases of the chemical in 2019, Huntsman Petrochemical of Port Neches, according to the most recent data in the EPA's Toxics Release Inventory.

Huntsman Petrochemical, the ACC, the TCEQ, the Sierra Club, and other advocacy groups petitioned the EPA to reconsider the rule.

"We appreciate the EPA's willingness to consider the latest science on this issue." the ACC says in a statement

"EPA must substantially strengthen these chemical plant rules by following the science to protect public health from cancer and other illnesses," says Emma Cheuse, attorney for Earthjustice, the law firm representing the environmental groups seeking reconsideration of the rule.

NAS To Review New DOD Approach For Setting Workplace TCE Standard

Maria Hegstad, Inside TSCA

https://insideepa.com/tsca-news/nas-review-new-dod-approach-setting-workplace-tce-standard

The National Academy of Sciences (NAS) gearing up to peer-review the Defense Department's (DOD) revised approach to developing a standard for workplace exposures to trichloroethylene (TCE), marking the latest step in DOD's long-running struggle to reconcile EPA and OSHA's drastically different findings on the solvent.

NAS on June 22 set a July 16 deadline for nominations to a committee that will review DOD's revised approach to developing a TCE standard for occupational exposures -- the department's second attempt at that process, after NAS criticized its first version in a 2019 peer review in part because officials deviated from their stated review process to

exclude a controversial study linking TCE exposures to fetal heart defects.

And that process will play out as EPA is working on its own TCE rules to manage unreasonable risks, including those to workers that it identified in its 2020 Toxic Substances Control Act (TSCA) evaluation of TCE -- an evaluation that Biden officials and others have attacked as "tainted" by political interference in part due to its rejection of the same fetal-impacts study.

It is unclear how those ongoing processes will affect each other, as both EPA's risk management rule and DOD's draft occupational exposure level (OEL) would both be designed to protect workers from on-the-job TCE exposures, while the Occupational Safety and Health Administration (OSHA) has already established a workplace limit for exposures to the solvent, though at a much less stringent level than either EPA or DOD has favored.

DOD's project is partly a response to EPA's 2011 Integrated Risk Information System (IRIS) assessment of TCE, which also relied on findings of heart malformation in mice exposed to TCE in utero, as seen in the 2003 "Johnson study."

The resulting IRIS risk estimate is particularly stringent, with a daily reference dose -- the greatest amount of a chemical that EPA estimates could be consumed daily without adverse non-cancer effect -- of just 0.0005 milligrams per kilogram, or 0.5 parts per billion (ppb), for chronic exposures. That has led to widespread concern over how agencies might use the figure in risk management actions.

EPA itself is in the midst of crafting a TCE rule under TSCA, though the Trump administration in its evaluation of risks from the solvent declined to consider the Johnson study and instead based its conclusions on the less-sensitive endpoint of immune system effects, resulting in weaker risk estimates.

Michal Freedhoff, the agency's chemicals chief, has already identified the TCE evaluation as one of three Trump-era projects that she said were "compromised" by interference from political appointees, but she has yet to explain how she intends to address it, leaving the document in limbo despite TSCA's mandate to propose risk management rules within a year of finishing a chemical evaluation.

In sharp contrast to IRIS' conservative approach, OSHA has set its permissible exposure limit (PEL) of 100 parts per million (ppm) over an 8-hour workday, and 300 ppm as a five-minute maximum peak allowable in any two-hour period.

The massive difference between the IRIS and OSHA figures prompted DOD to start its own process for crafting an OEL rather than adopting one agency's approach or the other. Specifically, a DOD official said at NAS' first public meeting in 2019 that the department began work on an exposure limit after three DOD sites were found to exceed EPA-crafted criteria for vapor intrusion from cleanup sites into occupied workplaces.

DOD sampled the sites based on those findings but found the samples to be within the OSHA PEL, creating uncertainty among commanders and personnel on whether the chemical actually poses risks to servicemembers.

The first attempt at answering that question produced a proposed limit of 0.9 ppm, but met harsh critique from the NAS peer-review committee, which said the department's methods lacked transparency and were inconsistently applied, [...]

California Proposes Priority Listing For Tire Anti-Cracking Chemical 6PPD
Curt Barry, Inside TSCA
https://insideepa.com/tsca-news/california-proposes-priority-listing-tire-anti-cracking-chemical-6ppd

California's toxics department is proposing through its Safer Consumer Products (SCP) green chemistry program to list motor vehicle tires containing the anti-cracking chemical N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) as a "priority product" for future regulation, after finding the substance is killing fish in state waterways.

The department is also advancing an earlier proposal to list tires containing zinc as priority products, while evaluating for potential action several other chemicals used in tires.

"6PPD-quinone, a recently discovered reaction product of 6PPD, is acutely toxic to coho salmon, including juveniles, and kills fish a few hours after exposure," states a June 22 Department of Toxic Substances Control (DTSC) release that covers both the proposed listing and an upcoming July 28-29 workshop on 6PPD and other toxic chemicals in vehicle tires.

"The confirmed presence of 6PPD-quinone in California's waterways threatens the state's remaining coho salmon populations, which are endangered or threatened, and may jeopardize the recovery of this species," the announcement adds. "While little is known about the effects of 6PPD-quinone on other organisms, it may also be toxic to closely related species such as steelhead and chinook."

DTSC staff also released a draft product-chemical profile for the 6PPD listing proposal, and set an Aug. 6 deadline for public comment on the plan.

Under the SCP program, a priority product listing requires companies to conduct chemical alternatives analyses to determine whether there are safer substitutes. Based on the results of the analyses, DTSC can eventually restrict or ban the original chemicals at issue in the products.

The proposed listing comes after DTSC added a category for "motor vehicle tires" to its draft 2021-23 SCP workplan earlier this year. At the time, DTSC officials said the change was needed because of concerns about releases of zinc and 6PPD from tires into waterways.

DTSC has already opened a public comment period for its proposal to list tires containing zinc as a priority product, but is extending the deadline for submitting comments to Aug. 6, according to the announcement.

Additional Tire Chemicals

In addition, "DTSC has conducted preliminary screening research on several other tire-derived chemicals that may be of concern to the aquatic environment and has identified data gaps related to their potential adverse impacts," the notice reads. "We have released a draft document highlighting our initial findings and questions and have opened a public comment period for this document a well." That comment period also ends Aug. 6.

The other chemicals DTSC is flagging include: benzothiazoles, 2-mercaptobenzothiazole, chlorinated paraffins, 1,3-diphenylguanidine, (methoxymethyl) melamines, octylphenol ethoxylates, and polycyclic aromatic hydrocarbons.

DTSC's July 28-29 workshop aims to "solicit information on all three topics," the notice says.

The state's effort is expected to draw some pushback from the tire manufacturing industry, among others. In January, after DTSC announced its intent to essentially ban zinc from tires through the SCP program, the U.S. Tire Manufacturers Association raised strong objections, arguing in part that tires represent only a fraction of zinc contamination of the environment.

The group also argued that zinc oxide "plays a critical and irreplaceable role in manufacturing tires," including serving as an "activator" in the vulcanization process that turnssoft, stickyrubber intostablecomponents thatallow atire to carry the weight of a vehicleand to stop safely.

Court Delays Briefing In Asbestos Evaluation Suit Amid 'Positive' Talks
David LaRoss, Inside TSCA
https://insideepa.com/tsca-news/court-delays-briefing-asbestos-evaluation-suit-amid-positive-talks

A federal appellate court has agreed to a joint request from EPA and environmentalists to delay briefing in litigation challenging the agency's TSCA evaluation of chrysotile asbestos as the parties engage in "positive settlement discussions," a change from other pending cases where EPA is at odds with challengers on how it will redo Trump-era evaluations.

Both sides in Asbestos Disease Awareness Organization (ADAO), et al. v. EPA filed a June 22 joint motion with the U.S. Court of Appeals for the 9th Circuit saying those negotiations warrant a delay of briefing deadlines in the case and could resolve their claims altogether.

"Petitioners and respondents have been engaged in positive settlement discussions and believe that a delay in briefing will enable the parties to complete these discussions as efficiently as possible. A 90-day extension of the current July 1 deadline for filing petitioners' opening brief will conserve the resources of the parties and the Court and enhance the prospects for a successful and timely resolution of this case," the motion says.

The 9th Circuit granted that request without comment in a clerk's order issued just hours later, extending the start of merits briefing to Oct. 27.

Those talks mark a potential milestone for EPA's efforts to rework some or all of the 10 Trump-era Toxic Substances Control Act (TSCA) evaluations of existing chemicals.

The agency has previously sought permission from the 9th Circuit to remand three other evaluations, of methylene chloride, 1,4-dioxane and the "cluster" of flame retardants known as HBCD, but each of those requests has drawn strident opposition from challengers.

In particular, the groups suing over methylene chloride and HBCD have argued that EPA's planned voluntary remands would not go far enough in addressing their arguments that the evaluations are legally flawed, avoid precedent-setting decisions on how stringent TSCA requires existing-chemical evaluations to be, and fail to set an enforceable timeline for finishing work on any revisions the agency decides are needed.

If the agency is instead able to negotiate a consensus path forward for asbestos with ADAO and the other groups suing over that evaluation, it could set a marker for those cases and help avert potential disputes over the other six evaluations.

But negotiations in ADAO could also be shaped by the fact that industry is involved in the case, as the Chlorine Institute -- whose members represent the largest remaining domestic users of asbestos -- successfully intervened in defense of the Trump administration's evaluation, giving it a potential voice in settlement talks and any decision on whether to remand the document back to EPA.

The June 22 filing implies that the institute is not yet involved in the ongoing talks, as it describes negotiations as being between the petitioners and "respondent," which generally refers to EPA. Further, the last line of the motion says, "Counsel for petitioners contacted counsel for intervenor The Chlorine Institute, who indicated that intervenor does not oppose this motion."

But it is generally unclear how industry parties will respond to EPA's plans for the Trump administration's evaluations, whether they come through settlement talks or remand requests. In the methylene chloride suit, which is the most advanced of any challenge to a TSCA evaluation, none of the three intervenors have filed any new briefs since EPA first asked the 9th Circuit for a remand.

Asbestos Evaluation

Although ADAO and the other petitioners have not yet spelled out their legal arguments against the 2020 asbestos evaluation, they are expected to target its findings that 16 of the 32 uses of chrysotile asbestos that EPA studied do not

pose an unreasonable risk to workers, consumers, bystanders or the environment -- a list that includes import and distribution of the fibers by many chlorine manufacturers.

Under TSCA, once EPA identifies an unreasonable risk from use of an [...]

New Mexico officials seek hazardous designation for PFAS
Susan Montoya Bryan, Associated Press
https://apnews.com/article/nm-state-wire-new-mexico-health-business-environment-and-nature-db3f467e5dd7fa2c4825e91501a13d47

ALBUQUERQUE, N.M. (AP) — New Mexico Gov. Michelle Lujan Grisham is among those calling on the U.S. government to list so-called "forever chemicals" as hazardous waste under federal law, saying the move would provide a regulatory path for states across the nation that are dealing with contamination at military bases and other locations.

The governor filed her brief petition with the U.S. Environmental Protection Agency on Wednesday.

It follows recent congressional testimony given by New Mexico Environment Secretary James Kenney and others in which they made the same request to list as hazardous perfluoroalkyl and polyfluoroalkyl substances, which are known collectively as PFAS. The class of highly toxic chemicals is used in products like nonstick cookware, carpets, firefighting foam and fast-food wrappers.

"In the absence of a federal framework, states continue to create a patchwork of regulatory standards for PFAS across the U.S. to address these hazardous chemicals," the governor said in a statement. "This leads to inequity in public health and environmental protections."

She said having a federal framework to deal with the chemicals would provide equal protection for all communities.

Aside from the push for a hazardous waste designation, public health advocates and others have said that setting a national drinking water standard for the chemicals would be an important step in addressing the contamination.

New Mexico sued the federal government in 2019 over PFAS contamination at two U.S. Air Force bases in the state.

Air Force contractors and state environment officials both have been working to determine the extent of toxic plumes left behind by past firefighting activities at Cannon and Holloman air bases.

If the chemicals were to be classified as hazardous, New Mexico officials said that would allow state officials rather than the U.S. Department of Defense to manage cleanup of PFAS under existing state programs that are authorized by the Environmental Protection Agency.

State officials said the EPA is required to act on the governor's petition within 90 days.

Two citizen petitions also are pending.

There have been numerous cases around the country in which the chemicals have contaminated drinking water sources. When ingested over time, PFAS can lead to increased risk of kidney and testicular cancers, low infant birth weights and other health problems.

Sweeping Bill Controlling PFAS Heads Towards House Floor
Pat Rizzuto, Bloomberg Law

https://news.bloomberglaw.com/environment-and-energy/sweeping-bill-controlling-pfas-heads-towards-house-floor?context=search&index=2

A House committee approved with a 33 to 20 vote Wednesday legislation that would use multiple laws to restrict some "forever chemicals" and obtain further information to decide on others.

The House Energy and Commerce Committee approved the PFAS Action Act of 2021 (H.R. 2467) with the support of three Republicans, all of whom are from states where PFAS-contaminated drinking water is a hot-button topic.

An anticipated floor vote on the bill is not scheduled, according to an aide for House Majority Leader Steny Hoyer (D-Md.). But the bill's co-sponsor Rep. Debbie Dingell (D-Mich.) has said she anticipates a July vote.

Per- and polyfluoroalkyl substances, or PFAS, often are called "forever chemicals," because neither sunlight, weather, nor microbes can break some of them down. Some of these persistent chemicals are linked to health problems including high cholesterol, reduced vaccine effectiveness, and cancer. Yet, PFAS' resistance to heat, oil, water, chemical corrosion, and other properties make them particularly useful in a wide range of industries.

Superfund Liability Remains

The committee rejected at least eight amendments Republicans offered that would, for example, have shielded from superfund liability companies that release PFAS used to make medicines, medical devices, lithium batteries, semiconductors, solar panels, pipeline safety equipment, and equipment used to protect "persons sworn to defend the United States."

Rep. Paul D. Tonko (D-N.Y.) and many other Democratic lawmakers said companies making such equipment already have to comply with hazardous waste and other environmental laws. If their carelessness leads to PFAS being released into the environment, "they should absolutely have to clean it up," Tonko said.

Rep. Cathy McMorris Rodgers (R-Wash.), the committee's top Republican, said the bill imposes so many requirements on the Environmental Protection Agency that "EPA will become the Environmental PFAS Agency."

But Committee Chairman Frank Pallone (D-N.J.) said the House approved the very same bill in the last Congress. One year later, he said, "we still don't have a drinking water standard, a test rule, or a hazardous substance designation for even a single PFAS chemical."

An array of industrial sectors oppose the bill including the National Association of Manufacturers, National Cattlemen's Beef Association, and Agricultural Retailers Association, according to a letter provided to the committee.

Standards for 'forever chemicals' in groundwater, drinking water in Wisconsin will move forward, despite pushback from industry

Laura Schulte, Milwaukee Journal Sentinel

https://www.jsonline.com/story/news/local/wisconsin/2021/06/23/pfas-standards-wisconsin-groundwater-drinking-water-moving-ahead/7748518002/

MADISON – The process for setting standards for "forever chemicals" and some pesticides in drinking and groundwater got the green light Wednesday, despite pushback from industry groups.

The standards take aim at two areas where PFAS have been found throughout Wisconsin: groundwater and drinking water. But the standards face an all but certain rejection by a Republican-controlled Legislature that has blocked such standards before, when proposed as legislation and by Gov. Tony Evers as a part of his budget.

Steve Elmore, the drinking water and groundwater bureau director for the Department of Natural Resources, said the groundwater standards aim to add six pesticides, 12 individual PFAS chemicals and four combined PFAS to the list of contaminants that are regulated by the DNR.

The standards will apply to regulated entities — for example industrial businesses or a landfills. If PFAS are found in monitoring wells or during testing near the business or landfill, the DNR could require action be taken by the entity to remedy the contamination, Elmore said.

The groundwater standards won't apply to any public water systems or private wells, but will focus on the regulated entity that is responsible for the contamination and can be held responsible for clean up.

The other set of standards will focus on levels of 16 different individual PFAS and four combined PFAS, following on the heels of recommendations made by the Department of Health Services late last year.

The standards would require municipal drinking water systems and businesses with their own wells to remain below the standards for each chemical, and would also establish monitoring frequency, public notification and how laboratories analyze water samples, Elmore said.

Together, the standards would make up an important set of rules for the state, protecting the water that people drink.

"These are important actions to protect public health relating to drinking water," Elmore said at a meeting Wednesday of the Natural Resources Board. "This is going to be a long effort, but I'm confident this is an important process."

Scope statements for the standards will now move forward with economic impact statements, which take into account the concerns of municipalities, as well as industry leaders. Only one member of the board — William Bruins — opposed the statements moving forward, because of pushback from groups such as Wisconsin Manufacturers & Commerce and the Wisconsin League of Municipalities.

The statements will eventually go before the governor and then the Legislature for approval, but will go through up to two years of work by DNR staff before it reaches that step.

The groups submitted comments showing concern that the DNR doesn't have authority to set standards and that standards should only be set after research is submitted from the regulated communities. The board's lawyer disputed the claim that the agency doesn't have authority, and assured that the process moving forward will take into account research submitted by regulated communities.

After the statements passed, DNR Secretary Preston Cole emphasized why it's so important the state move forward with regulations, even when the Environmental Protection Agency hasn't regulated PFAS at a national level.

"There is a reason these are in our drinking water," he said. "It kills us. It gives us cancer. And we will take the information from public health officials and run the gauntlet with them."

In early 2020, the board signed off on creating standards for two of the most well-known and researched compounds in the PFAS family — PFOA and PFOS. Currently those rules are making their way through public hearings on the potential economic impact, which is the next step the other standards will take.

PFAS contamination found throughout Wisconsin

PFAS have been a hot topic in Wisconsin, with contaminations affecting communities across the state, forcing people to use bottled water for drinking, [...]

ERS tracks, quantifies bee pollination
Annie Deckey, Agri-Pulse
https://www.agri-pulse.com/articles/16080-demand-for-pollination-requires-honey-bees-to-travel-extensively

Honey bee pollination services are worth between $250 million and $320 million annually, Economic Research Service said in a new report, which also valued the honey production market at about $330 million per year. [...]

Title: EU glyphosate assessment dismisses many negative claims
Andy Doyle, Irish Farmers Journal
https://www.farmersjournal.ie/eu-glyphosate-assessment-dismisses-many-negative-claims-630492

An internal EU draft report by four member state competent authorities on the safety of glyphosate has dismissed most of the negative claims made against the active. [...]

Seresto pet collars under EPA review, but the fight over their safety could take years
Johnathan Hettinger, USA Today
https://www.usatoday.com/in-depth/news/investigations/2021/06/24/seresto-pet-collars-under-epa-review-dont-expect-quick-decision/7773741002/

The U.S. Environmental Protection Agency launched a review into the best-selling Seresto flea and tick collar this spring after media reports about injuries and deaths linked to the product spurred a congressional inquiry, class-action lawsuits and a formal complaint.

The collars, which release small amounts of pesticide onto the fur of cats and dogs for months at a time, were the subject of 75,000 EPA incident reports, including at least 1,698 pet deaths, since their introduction to the market nine years ago.

But any determination by the EPA about the product's safety is likely to take years – up to a decade or more – based on the agency's history of foot dragging over complaints about other potentially dangerous pet products.

Since 2006, the EPA has received three public petitions asking it to ban pesticides in pet products over concerns about human health risks. One of them, filed earlier this year, involves Seresto and is ongoing. The other two took an average of 10 years for the EPA to resolve, even as some of the products it ultimately deemed dangerous remained on the shelves.

One of those other cases in particular bears a striking similarity to Seresto.

More than a decade ago, nonprofit Natural Resources Defense Council petitioned the EPA to ban the use of a pesticide called tetrachlorvinphos in pet products like flea and tick collars. The organization cited studies showing that the chemical, a possible carcinogen, had been linked to brain and nerve damage in children.

What followed was 12 years of delayed action, lawsuits, bureaucratic red tape and a new EPA assessment of the pesticide that confirmed some of the nonprofit's concerns about its use in pet collars. Despite that, tetrachlorvinphos, also called TCVP, is still used in some flea and tick collars today.

The long battle over TCVP shows how hard it can be to remove a chemical from pet products, even when governmental scientists, experts and even federal appeals judges believe it's harmful to children.

"In sum, the EPA's years-long delay on this critical matter of public health has been nothing short of egregious," wrote

Ronald M. Gould, a Ninth Circuit Court of Appeals judge in an April 2020 decision mandating a response by the EPA to the Natural Resources Defense Council.

"For more than a decade," Gould wrote, "the EPA has frustrated NRDC's ability to seek judicial review by withholding final agency action, all the while endangering the wellbeing of millions of children and ignoring its 'core mission' of 'protecting human health and the environment.'"

In the end, the EPA canceled some uses of TCVP in pet products but allowed others to continue to be sold.

EPA spokesman Ken Labbe said in an email the agency has found pet products containing TCVP, including the popular Hartz UltraGuard collar, to meet registration requirements under federal pesticide laws. In other words, he said, the risk level is acceptable.

Hartz defended the safety of its products. In an emailed statement, the company said its flea and tick collars present no risk to humans or pets when used as directed.

Also defending its products is Elanco, which sells the Seresto flea and tick collars. The nonprofit Center for Biological Diversity petitioned the EPA in April to ban Seresto collars because of the risks associated with its two pesticides – imidacloprid and flumethrin.

Seresto collars were the subject of more than 75,000 reported incidents of pet harm and nearly 1,000 incidents of human harm in the past nine years. Elanco said in previous statements that a vast majority of reported incidents involve minor skin irritations at the site of the collar. The company also said that it investigated each report of pet death and found no link between the collars and the death.

Elanco said its collars are safe and that the overall incident rate is low at 0.3%, meaning one in 300 pets has a reported issue. There is no medical or scientific basis to discontinue their use, the company [...]

Saving America's Pollinators Act Reintroduced, Advocates Urge Congressional Action to Stop Pollinator Decline
NA, Beyond Pesticides
https://beyondpesticides.org/dailynewsblog/2021/06/saving-americas-pollinators-act-reintroduced-advocates-urge-congressional-action-to-stop-pollinator-decline/

(Beyond Pesticides, June 24, 2021) This Pollinator Week 2021, U.S. Representatives Earl Blumenauer (D-OR) and Jim McGovern (D-MA) are reintroducing the Saving America's Pollinators Act (SAPA) in an effort to reverse ongoing declines in wild and managed pollinators. SAPA uses the latest scientific research and perspectives to ensure that pollinators are protected. The bill suspends the use of neonicotinoids and other pesticides harmful to bees and other pollinators until an independent board of experts determine that they are safe to use, based on strong scientific assessment.

"Without our world's pollinators, the world would be a very different place. These bees, butterflies, hummingbirds, and other creatures are essential elements of our food system. Losing them means we risk losing the very food we put on our table," said Rep. Blumenauer. "We must use every tool at our disposal to provide pollinators with much-needed relief from bee-toxic pesticides and monitor their populations to ensure their health and survival."

Neonicotinoids are systemic pesticides; once applied to a seed or sprayed on a plant they make their way into the pollen, nectar and dew droplets that plants produce and pollinators feed upon. Exposure impairs pollinator navigation, foraging, and learning behavior, and also suppresses their immune system, making them more susceptible to disease and pathogens like the varroa mite.

The last decade saw American beekeepers lose over 30% of their hives annually. And wild pollinators are experiencing declines that threaten their extinction. The iconic American Bumblebee has lost 89% of its population over the last 20

years. Populations of eastern monarchs have declined by 80% since the 1990s. This past year, citizens scientists participating in the western monarch count found a scant 2,000 butterflies. This is down from roughly 1.2 million monarchs in the 1990s, 300,000 in 2016, and 30,000 in 2019. All of these impacts have been associated with the use of toxic pesticides in peer-reviewed scientific studies.

The harmful effects of neonicotinoids and other pollinator-toxic pesticides are not siloed in the environment, however. Declines in pollinator populations work their way up and down the food chain, from the plants that depend upon pollination, to the people that rely on healthy, nutrient dense food pollination provides. Pollination services are valued at $125 billion globally, and pollinators are responsible for one in three bites of food, including nuts, fruits, and vegetables. Past research has found that the loss of pollination services would have a devastating impact on global nutritional health, with women and children most affected. Already in the United States, many communities lack access to healthy fruits and vegetables –allowing the pollinator crisis to continue unabated is likely to exacerbate these problems by increasing prices on important staples.

Neonicotinoids also harm people directly. In public parks and playing fields, these are often the chemicals of choice to manage grub problems on turf, despite the availability of alternative methods. The latest research links neonicotinoids to nervous system toxicity, reproductive damage, and birth defects. In particular, reviews have found links to birth defects of the heart and brain, and the development of finger tremors. Neonicotinoids appear to disproportionately affect the male reproductive system, and animal studies have found cause for concern – from decreased testosterone levels to abnormal and low sperm count (see NRDC for more on the harms of neonics to human health). As reported by the Black Institute, pesticides like glyphosate are disproportionately sprayed in black and brown communities, where public parks are often the only green space available for family picnics and outings.

The Saving America's Pollinators Act is not limited in its ability to save America's pollinators. SAPA would help people, who depend on pollination [...]

Changes Coming for PFAS Due Diligence in M&A, Real Estate Deals
John P. Gardella, Bloomberg Law
https://news.bloomberglaw.com/environment-and-energy/changes-coming-for-pfas-due-diligence-in-m-a-real-estate-deals?context=search&index=1

For any company buying property or undertaking a merger and acquisition where a polluted site is suspected as part of the asset package, the "gold standard" for environmental due diligence on the property is the ASTM International Phase I environmental site assessment. Insurance companies also rely on the Phase I assessment results when determining coverage options for current or potential insureds as part of the business transaction.

Yet, even with all the attention given to PFAS by the media, legislatures, and courts, PFAS is absent from current Phase I assessments. This means that buyers and sellers are exposed to significant risks for future PFAS issues stemming from real estate transactions, which in turn has insurers and investors concerned.

By December 2021, ASTM will amend its Phase I assessment language to include reference to PFAS. While this change likely will increase the level of PFAS testing in real estate and M&A deals, parties involved in these transactions must understand that the changes will not suddenly absolve them of liability risks. Insurers, too, must understand that despite the ASTM changes to come, PFAS loss risks stemming from real estate or merger deals will continue to abound.

The Current Landscape
Purchasers and sellers utilize Phase I assessments because it may allow them to escape liability under CERCLA (also known as the Superfund law), if it is subsequently determined that there is an environmental pollution issue with the subject property. This reduction of risk is often enough of an assurance for parties to proceed with a deal.

The purpose of a Phase I, however, is to identify "recognized environmental conditions", which ASTM defines as

substances classified as "hazardous substances" under CERCLA. None of the 7,000+ PFAS are currently deemed "hazardous substances" under CERCLA. PFAS are therefore not included in Phase I assessments, exposing buyers and sellers to potentially enormous liabilities in the future, especially given the prediction that federal drinking water standards and CERCLA designations for PFAS are coming very soon.

There are workarounds to the Phase I gaps with respect to PFAS, but they come at a price to buyer or seller as an added service during a Phase I. Many companies choose not to spend additional money on this testing, since it is not currently required. Moreover, with over 7,000 PFAS types theoretically for which to test, many companies see it as an impossible task to decide what the scope of PFAS testing should be. From information gathered in discussions with environmental consultants, it is estimated that in some markets less than 10% of Phase I participants currently choose to have PFAS testing done.

2021 ASTM Changes

ASTM's Phase I task groups are composed of over 200 due diligence consultants, lenders, attorneys, and other professionals that are currently working on revisions to Phase I standards. The task groups have worked for close to two years now to include PFAS in the Phase I standards and are actively working on drafting language to incorporate PFAS into the revised language. ASTM intends to publish its final revised standards by December 2021.

However, while ASTM is virtually certain to include references to PFAS in its revised standards, it is important to understand that the references will likely come in the form of a recognition that while PFAS are a "non-scope issue," they do not rise to the level of recognized environmental contaminants.

Essentially, what this means is that ASTM recognizes that PFAS do not fall within the definition of required chemicals to test for, given the lack of CERCLA designation of PFAS. However, PFAS are of significant enough concern that anyone undertaking a Phase I assessment should consider taking proactive steps to test for the substances.

While this will be a nod by the ASTM to the fact that PFAS should be of particular concern for buyers and sellers alike, it stops short of requiring PFAS testing in [...]

Earl Blumenauer Wants to Ban Bee-Killing Pesticides. Is Congress Listening?
Lisa Held, Civil Eats
https://civileats.com/2021/06/24/earl-blumenauer-wants-to-ban-bee-killing-pesticides-will-congress-finally-act/

Representative Earl Blumenauer (D-Oregon) has long pushed for policies that would make U.S. agriculture greener, including linking crop insurance subsidies to conservation practices and making agriculture a central component of the Green New Deal.

For over a decade, he's been doggedly sounding the alarm on threats to bees and other pollinators, and proposing legislation to address those threats. On Wednesday, he introduced the Saving America's Pollinators Act for the third time (with some changes made along the way), with Jim McGovern (D-Massachusetts) as a co-sponsor and strong support from conservation groups including the Natural Resources Defense Council (NRDC), Friends of the Earth, and the Center for Biological Diversity.

In addition to establishing a Pollinator Protection Board explicitly free from pesticide industry representation, the bill would make sweeping changes to the commodity agriculture status quo by immediately canceling the registration of neonicotinoids until they undergo further review. These systemic insecticides, called neonics for short, are used to coat the vast majority of corn and soy seeds planted in the U.S. and farmers spray them on many fruit and vegetable crops.

Although Blumenauer admits the bill has little chance of advancing or becoming law, a lot has changed since he first shone a light on the issue in 2007. Neonics' devastating impacts on bees and other pollinators are now well-established,

while more recent research is showing the chemicals can leach into soil and water and negatively affect aquatic animals, birds, mammals, and entire ecosystems. Policymakers in the European Union, Canada, and some U.S. states have also instituted various bans and restrictions on their use.

Still, the U.S. has allowed most farmers in most places to continue using neonics, and while evidence shows their use as treatments on commodity corn seeds may not ultimately benefit crops or farmers, it hasn't slowed down their use. And in places like Florida and California, citrus growers rely on them to battle pests.

The day before he introduced the bill, Blumenauer spoke with Civil Eats to discuss why he's convinced banning these pesticides is critical and what the path forward looks like.

You've introduced this bill a few times. What makes you want to keep bringing it back session after session?

Pollinators play a critical role in the food supply. Three quarters of the foods that make life interesting and healthy involve pollination. On a global scale, we're talking about upwards of $200 billion dollars a year, and we continue to see pollinator populations struggling. We lost an estimated one-third of honeybee colonies between 2016 and 2018. National honey crops have remained at record low levels, and the scientific evidence that we are creating this with nicotine-derived pesticides, neonicotinoids, [is increasing]. To be clear, it also exposes humans, especially farmworkers [to health risks].

Other parts of the world are moving: The E.U. has permanently banned the outdoor usage of several neonicotinoids, and we've got some [laws] in Oregon, in Portland and Eugene, and Maryland that have restricted the use. [California may also soon restrict use.] But the federal government has not. And in fact, Trump's EPA allowed bee-killing pesticides back on the market—and announced it was suspending data collection for its annual honeybee survey, which gives us the information to track the honeybee population.

So, as public awareness grows, the problem continues to be vexing, and it's getting worse and we're falling behind the rest of the world. We're trying to get the federal government back in the game. We're establishing a Pollinator Protection Board, which I think will be extraordinarily useful for monitoring. [The bill] is just a way for us to refocus on how pollinators and the food system are in crisis.

The proposed requirement that the Pollinator Protection Board not include pesticide industry [...]

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